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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DAVEON NECOLIOUS TAYLOR**
14 **3255 Armstrong Street, #H11**
San Diego, CA 92111

15 **Pharmacy Technician License No. TCH**
16 **177865**

17 Respondent.

Case No. 7288

18 **DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about August 4, 2022, Complainant Anne Sodergren, in her official capacity as
21 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed
22 Accusation No. 7288 against Daveon Necolious Taylor (Respondent). (Accusation attached as
Exhibit A.)

23 2. On or about August 25, 2020, the Board issued Pharmacy Technician License No.
24 TCH 177865 to Respondent. The Pharmacy Technician License was in full force and effect at all
25 times relevant to the charges brought in Accusation No. 7288, and it expired on May 31, 2022.
26 This lapse in licensure, however, pursuant to Business and Professions Code section 118,
27 subdivision (b) and Business and Professions Code section 4300.1 does not deprive the Board of
28 its authority to institute or continue this disciplinary proceeding.

1 3. On or about August 17, 2022, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7288, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 3255 Armstrong Street, #H11, San Diego, CA 92111.

7 4. The Accusation packet served by certified mail to Respondent's address of record
8 was signed for by an agent of "D.N. Taylor" on August 19, 2022.

9 5. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
11 124.

12 6. Government Code section 11506, subdivision (c) states, in pertinent part:

13 The respondent shall be entitled to a hearing on the merits if the respondent files
14 a notice of defense . . . and the notice shall be deemed a specific denial of all parts of
15 the accusation . . . not expressly admitted. Failure to file a notice of defense
16 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
17 discretion may nevertheless grant a hearing.

18 7. The Board takes official notice of its records and the fact that Respondent failed to
19 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
20 waived his right to a hearing on the merits of Accusation No. 7288.

21 8. California Government Code section 11520, subdivision (a) states, in pertinent part:

22 If the respondent either fails to file a notice of defense . . . or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions or
24 upon other evidence and affidavits may be used as evidence without any notice to
25 respondent

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
finds that the charges and allegations in Accusation No. 7288, are separately and severally, found
to be true and correct by clear and convincing evidence.

10. The Board finds that the actual costs for Investigation and Prosecution are \$1,926.25 as of September 14, 2022.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Daveon Necolious Taylor has subjected his Pharmacy Technician License No. TCH 177865 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondent has subjected his pharmacy technician registration to disciplinary action under Business and Profession Code (Code) sections 490 and 4301, subdivision (l), because he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. On January 10, 2022, in a criminal proceeding entitled *The People of the State of California v. Daveon Taylor*, in San Diego County Superior Court, case number CD292488, Respondent was convicted on his plea of guilty of violating Penal Code section 69 (unlawfully resisting an officer by force and violence), a felony.

b. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301, subdivision (f), in that on July 19, 2021, Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit.

c. Respondent subjected his pharmacy technician registration to discipline under Code section 4301, subdivision (p), in that Respondent was convicted of a crime, for conduct that would have warranted the denial of a pharmacy technician registration under Code section 480, subdivision (a)(1).

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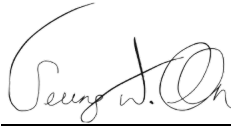
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 177865, issued to Respondent Daveon Necolious Taylor, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on November 16, 2022.

It is so ORDERED on October 17, 2022.



Seung W. Oh, Pharm.D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:SD2022800912

Attachment: Exhibit A: Accusation No. 7288

Exhibit A

Accusation No. 7288

(DAVEON NECOLIOUS TAYLOR)

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9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 7288

14 **DAVEON NECOLIOUS TAYLOR**
15 **3255 Armstrong Street, #H11**
San Diego, CA 92111

ACCUSATION

16 **Pharmacy Technician Registration No. TCH**
17 **177865**

Respondent.

18
19 **PARTIES**

20 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

22 2. On or about August 25, 2020, the Board issued Pharmacy Technician Registration
23 Number TCH 177865 to Daveon Necolious Taylor (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein,
25 expired on May 31, 2022, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 118, subdivision (b) provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 4300, subdivision (a), states, "Every license issued may be suspended or revoked."

6. Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

7. Code section 482 states:

(a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

...

(d) This section shall become operative on July 1, 2020.

8. Code section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, or duties of the business or profession for which the license was
2 issued.

3 9. Code section 493 states:

4 (a) Notwithstanding any other law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or
6 revoke a license or otherwise take disciplinary action against a person who holds a
7 license, upon the ground that the applicant or the licensee has been convicted of a crime
substantially related to the qualifications, functions, and duties of the licensee in
question, the record of conviction of the crime shall be conclusive evidence of the fact
that the conviction occurred, but only of that fact.

8 (b) (1) Criteria for determining whether a crime is substantially related to the
9 qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

10 (A) The nature and gravity of the offense.

11 (B) The number of years elapsed since the date of the offense.

12 (C) The nature and duties of the profession.

13 (2) A board shall not categorically bar an applicant based solely on the type
14 of conviction without considering evidence of rehabilitation.

15 (c) As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

16 ...

17 (e) This section shall become operative on July 1, 2020.

18 10. Code section 4301 states:

19 The board shall take action against any holder of a license who is guilty of
20 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

21

22 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
23 deceit, or corruption, whether the act is committed in the course of relations as a
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

24 ...

25 (l) The conviction of a crime substantially related to the qualifications, functions,
26 and duties of a licensee under this chapter. The record of conviction of a violation of
Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
27 regulating controlled substances or of a violation of the statutes of this state regulating
controlled substances or dangerous drugs shall be conclusive evidence of
28 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
evidence only of the fact that the conviction occurred. The board may inquire into the

1 circumstances surrounding the commission of the crime, in order to fix the degree of
2 discipline or, in the case of a conviction not involving controlled substances or
3 dangerous drugs, to determine if the conviction is of an offense substantially related to
4 the qualifications, functions, and duties of a licensee under this chapter. A plea or
5 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
6 conviction within the meaning of this provision. The board may take action when the
time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
or when an order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
aside the verdict of guilty, or dismissing the accusation, information, or indictment.

7

8 (p) Actions or conduct that would have warranted denial of a license.

9 **REGULATORY PROVISIONS**

10 11. California Code of Regulations, title 16, section 1769, subdivision (c), states:

11 When considering the suspension or revocation of a facility or a personal license
12 on the ground that the licensee has been convicted of a crime, the board will consider
13 whether the licensee made a showing of rehabilitation and is presently fit for a license,
14 if the licensee completed the criminal sentence at issue without a violation of parole or
15 probation. In making this determination, the board will consider the criteria in
16 subdivisions (b)(1)(A) through (E). If the licensee has not completed the criminal
sentence at issue without a violation of parole or probation or the board determines that
the licensee did not make the showing of rehabilitation based on the criteria in
subdivisions (b)(1)(A) through (E), the board will apply the following criteria in
evaluating the licensee's rehabilitation:

17 (1) Nature and gravity of the act(s) or offenses.

18 (2) Total criminal record.

19 (3) The time that has elapsed since commission of the act(s) or offenses.

20 (4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

21 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

22 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as
23 provided in the board's Disciplinary Guidelines, identified in section 1760.

24 12. California Code of Regulations, title 16, section 1770, states:

25 (a) For the purpose of denial, suspension, or revocation of a personal or facility
26 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
27 Business and Professions Code, a crime, professional misconduct, or act shall be
28 considered substantially related to the qualifications, functions or duties of the practice,
profession, or occupation that may be performed under the license type sought or held
if to a substantial degree it evidences present or potential unfitness of an applicant or
licensee to perform the functions authorized by the license in a manner consistent with
the public health, safety, or welfare.

1 (b) In making the substantial relationship determination required under
2 subdivision (a) for a crime, the board will consider the following criteria:

3 (1) The nature and gravity of the offense;

4 (2) The number of years elapsed since the date of the offense; and

5 (3) The nature and duties of the practice, profession, or occupation that may
6 be performed under the license type sought or held.

7 (c) For purposes of subdivision (a), substantially related crimes, professional
8 misconduct, or acts shall include, but are not limited to, those which:

9 ...

10 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
11 documents, or personal information.

12 **COST RECOVERY**

13 13. Code section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
18 included in a stipulated settlement.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(January 10, 2022 Criminal Conviction - Resisting an Executive Officer on July 19, 2021)**

21 14. Respondent has subjected his pharmacy technician registration to disciplinary action
22 under Code sections 490 and 4301, subdivision (l), because he was convicted of a crime that is
23 substantially related to the qualifications, functions, and duties of a pharmacy technician. On
24 January 10, 2022, in a criminal proceeding entitled *The People of the State of California v.*
25 *Daveon Taylor*, in San Diego County Superior Court, case number CD292488, Respondent was
26 convicted on his plea of guilty of violating Penal Code section 69 (unlawfully resisting an officer
27 by force and violence), a felony. An additional felony charge for violation of Penal Code section
28 594, subdivision (a)(b)(1) for vandalism over \$400, was dismissed under a plea bargain. The
Court postponed the sentencing for one year, and ordered Respondent to return to Court on
January 10, 2023 for a probation and sentencing hearing. If, at the time of sentencing,

Respondent has not committed any other violations, the Court will reduce the Penal Code section 69 felony charge to a misdemeanor. The circumstances surrounding the conviction are that, on July 19, 2021, witnesses reported that Respondent shattered windows to a residence in San Diego, CA, and attempted to break-in. Soon thereafter, Respondent was spotted by a San Diego Police Department (SDPD) helicopter fleeing the area of the scene in a vehicle driving at a high rate of speed. A SDPD officer conducted a high-risk stop and approached Respondent to detain him. Respondent resisted and pulled away. During the struggle, Respondent hit the officer in the face. The officer sustained abrasions to his face, hands and knees, and reported a pain to his face.

SECOND CAUSE FOR DISCIPLINE

(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)

15. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301, subdivision (f), in that on July 19, 2021, Respondent broke two windows to a residence and attempted to break-in, then fled the crime scene, and resisted with force and violence police officers during the arrest, acts in violation of PC section 69, involving moral turpitude, dishonesty, fraud, or deceit.

THIRD CAUSE FOR DISCIPLINE

(Conduct That Would Have Warranted Denial of a License)

16. Respondent subjected his pharmacy technician registration to discipline under Code section 4301, subdivision (p), in that Respondent was convicted of a crime, for conduct that would have warranted the denial of a pharmacy technician registration under Code section 480, subdivision (a)(1), as detailed in paragraph 14, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 177865, issued to Respondent Daveon Necolious Taylor;

2. Ordering Respondent Daveon Necolious Taylor to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/4/2022

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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